

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOEL TALLEY,
Plaintiff,

VS.

RODRIGUEZ TRUCKING and
BILLY V. RODRIGUEZ,
Defendants.

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C.A. NO.: 5:19-CV-772

JURY DEMAND

PLAINTIFF'S ORIGINAL COMPLAINT & JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, JOEL TALLEY, complaining of RODRIGUEZ TRUCKING and BILLY V. RODRIGUEZ, herein called Defendants, as follows:

1.0 PARTIES

1.1 Plaintiff, JOEL TALLEY, is a resident of Bexar County, Texas. The last three numbers of his Texas Driver's license number are 521, and the last three numbers of his Social Security number are 165.

1.2 Defendant, RODRIGUEZ TRUCKING is a foreign for-profit corporation based in Michigan and doing business in the State of Texas. Defendant RODRIGUEZ TRUCKING may be served with citation by serving its registered agent Allen Civil Process- Berta Allen at 400 Mann St., Suite 902, Corpus Christi, Texas 78401.

1.3 Defendant BILLY V. RODRIGUEZ is a resident of Michigan. The last three digits of his driver's license number are 072; his social security number is unknown. Defendant RODRIGUEZ may be served under Texas's Long-Arm statute pursuant to Texas Civil Practice and Remedies Code section 17.062 by serving the Chairman of the Texas Transportation Commission. Defendant RODRIGUEZ'S last known address is 902 Carom Cir., Mason, Michigan 48854.

2.0 JURISDICTION

2.1 Pursuant to 28 U.S.C. §1332(a), this Court has original, diversity jurisdiction over Plaintiff's claims, because the Plaintiff and Defendants are citizens of different states and the amount in controversy sought by Plaintiff exceeds \$75,000, exclusive of interest and costs.

3.0 VENUE

3.1 Venue is proper in the Western District of Texas because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this District. 28 U.S.C. §1391(b)(2).

4.0 FACTS

4.1 Plaintiff brings this action to recover damages for personal injuries sustained by him as a result of the negligence of Defendants, RODRIGUEZ TRUCKING and BILLY V. RODRIGUEZ, relating to the operation of a 2005 Peterbilt tractor-trailer on or about March 1, 2019, that caused a motor vehicle collision with Plaintiff.

4.2 On or about March 1, 2019, Plaintiff was traveling southbound U.S. Highway 281 near the intersection of I.H. 35 in San Antonio, Texas.

4.3 Defendant Driver, who was operating a tractor trailer, was also traveling southbound bound in the lane immediately to Plaintiff's left.

4.4 The Freightliner tractor was owned by Defendant BILLY V. RODRIGUEZ.

4.5 The tractor was towing a trailer owned by Defendant BILLY V. RODRIGUEZ.

4.6 Defendant RODRIGUEZ TRUCKING hired, qualified, and retained Defendant BILLY RODRIGUEZ as a truck driver.

4.7 At all times relevant to this lawsuit, Defendant BILLY RODRIGUEZ was acting in the course and scope of his of his actual and/or statutory employment with Defendant RODRIGUEZ TRUCKING.

4.8 Defendant BILLY V. RODRIGUEZ suddenly and without warning, made an unsafe lane change into the lane Plaintiff was traveling and struck his vehicle.

4.9 As a result of this collision, Plaintiff suffered injuries and damages.

4.10 The collision in issue in this action was in no way due to any negligent act or failure to act on the part of the Plaintiff.

5.0 CAUSES OF ACTION—NEGLIGENCE AND GROSS NEGLIGENCE OF BILLY RODRIGUEZ

5.1 Defendant BILLY V. RODRIGUEZ was negligent in the operation of the tractor-trailer. Specifically, he:

- 5.1.1 Changed lanes when unsafe;
- 5.1.2 Was inattentive in his driving practices;
- 5.1.3 Failed to keep a proper lookout;
- 5.1.4 Failed to control his speed;
- 5.1.5 Failed to timely apply his brakes;
- 5.1.6 Was driving while fatigued; and
- 5.1.7 Drove while distracted.

5.2 The aforesaid conduct amounts to grossly negligent, wanton and dangerous conduct and reckless disregard for the lives and safety of others.

6.0 CAUSES OF ACTION—RODRIGUEZ TRUCKING

6.1 Defendant RODRIGUEZ TRUCKING is vicariously liable for the negligent conduct of its agents, servants, employees, representatives, vice-principals, assignees and contractors.

6.2 Defendant RODRIGUEZ TRUCKING is also liable for negligent hiring, controlling, and/or supervising its employees that have engaged in negligent behavior.

6.3 Defendant RODRIGUEZ TRUCKING is vicariously liable for the conduct of its agents,

servants, employees, representatives, vice-principals, assignees and contractors who Defendant RODRIGUEZ TRUCKING negligently hired, negligently controlled, and /or performed non-delegable duties, acting within the course and scope of their employment, including and not limited to, any and all acts and omissions pursuant to Defendant's authority and permission.

7.0 DAMAGES

7.1 Plaintiff seeks to recover the following elements of damages, which were proximately caused by Defendant's negligence:

- 7.1.1 Medical and life care expenses, past and future;
- 7.1.2 Lost wages and earning capacity, past and future;
- 7.1.3 Physical impairment, past and future;
- 7.1.4 Physical pain, emotional distress, and mental anguish, past and future; and
- 7.1.5 Disfigurement, past and future.

7.2 Plaintiff also seeks to recover prejudgment interest, post-judgment interest, court costs, and any other damages allowed in equity or in law.

8.0 PUNITIVE DAMAGES

8.1 The Defendants, by their acts and omissions as set forth above, acted toward the Plaintiff with oppression, fraud, malice, gross negligence and/or reckless disregard for the lives and safety of others to a degree sufficient to warrant the imposition of punitive damages to deter such further conduct on behalf of Defendants or similarly situated parties, in an amount which exceeds the jurisdictional minimum of this Court.

9.0 JURY DEMAND

9.1 Plaintiff respectfully requests a Jury in this matter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation be issued and Defendants be served, and upon trial on the merits the Court enter judgment for Plaintiff and against Defendants, jointly and severally, for actual damages, together with prejudgment interest, post-judgment interest, court costs, and punitive damages.

Respectfully submitted,

CROSLEY LAW FIRM, P.C.
3303 Oakwell Court, Suite 200
San Antonio, Texas 78218
Telephone No.: (210) 529-3000
Facsimile No.: (210) 444-1561
Service Email: service@crosleylaw.com

By: /s/ Shawn M. Mechler

Thomas A. Crosley
Texas Bar No. 00783902
tom@crosleylaw.com
Shawn M. Mechler
Texas Bar No. 24078989
shawn@crosleylaw.com
Service email: service@crosleylaw.com

ATTORNEYS FOR PLAINTIFF